

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE: §
§
GRCDALLASHOMES, LLC, § CASE NO. 19-41186
§ (Chapter 7)
DEBTOR §

MOTION FOR AUTHORITY TO REFUND EARNEST MONEY TO PURCHASER

Notice

Your rights may be affected by the relief sought in this pleading. You should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you oppose the relief sought by this pleading, you must file a written objection, explaining the factual and/or legal basis for opposing the relief.

No hearing will be conducted on this pleading unless a written objection is filed with the Clerk of the United States Bankruptcy Court and served upon the party filing this pleading **WITHIN TWENTY-ONE (21) DAYS FROM THE DATE OF SERVICE** listed in the certificate of service unless the court shortens or extends the time for filing such response. If no objection is timely served and filed, this pleading shall be deemed to be unopposed, and the court may enter an order granting the pleading. If an objection is filed and served in a timely manner, the court will thereafter set a hearing with appropriate notice. If you fail to appear at the hearing, your objection may be stricken. The court reserves the right to set a hearing on any matter.

TO THE HONORABLE BRENDA T. RHOADES, U.S. BANKRUPTCY JUDGE:

Christopher J. Moser, Trustee ("**Trustee**") files his Motion for Authority to Refund Earnest Money to Purchaser ("**Motion**") pursuant to the provisions of 11 U.S.C. §363(f) as follows:

Facts

1. On May 3, 2019, GRCDALLASHOMES LLC ("**Debtor**") filed a voluntary petition under Chapter 11 of the Bankruptcy Code.
2. On November 22, 2022 (the "**Conversion Date**"), the Debtor's Chapter 11 bankruptcy case was converted to a proceeding under Chapter 7. Christopher J. Moser was thereafter appointed as the Chapter 7 Trustee of the Debtor's bankruptcy estate.

3. The bankruptcy estate owned real property and improvements located at 7629 Lakeview Dr., The Colony, Texas (the “**Property**”).

4. The Trustee sold the Property to Jammie Harris (“**Purchaser**”) in a sale approved by this Court. *See* (ECF 428). The purchase price for the Property was \$156,000.00. Prior to the closing of the sale, Ms. Harris made a \$5,000.00 earnest money deposit with Trustee as required by the sale agreement. This deposit should have been credited to the Purchaser at closing.

5. Although the Earnest Money was properly paid to the Trustee, the \$5,000.00 was mistakenly not credited to Purchaser on the settlement closing statement. At closing, the Purchaser paid the Trustee the full amount of \$156,000.00 despite there being a \$5,000.00 earnest money deposit held by the Trustee. As a result, the Purchaser overpaid for the Property by the amount of \$5,000.00. Accordingly, the earnest money deposit should be refunded to the Purchaser.

Relief Requested

6. By this Motion, Trustee, seeks authority to refund the \$5,000.00 earnest money deposit to the Purchaser.

WHEREFORE, PREMISES CONSIDERED, the Trustee respectfully requests that this Court grant the Motion and authorize the Trustee to approve the refund of the earnest money and that Trustee be granted such other and further relief to which he is justly entitled.

Respectfully submitted,

QUILLING, SELANDER, LOWNDS,
WINSLETT & MOSER, P.C.
2001 Bryan Street, Suite 1800
Dallas, Texas 75201
(214) 880-1805 (Telephone)
cmoser@qslwm.com (Email)

By: /s/ Christopher J. Moser
Christopher J. Moser

ATTORNEYS FOR TRUSTEE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served by electronic transmission via the CM/ECF system upon all parties registered to receive electronic notice in this bankruptcy case, and/or regular U.S. mail, postage prepaid, on this 29th day of August 2023 on all parties on the attached matrix.

/s/ Christopher J. Moser